

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-349

October 22, 2002

VERIZON NEW ENGLAND, INC.  
D/B/A VERIZON MAINE  
Request for a Waiver of the Service  
Quality Index Related to the Impact  
Of Snow and Ice Storms that Struck  
Areas of Central and Southern Maine  
During the week of January 13, 2002

INTERIM ORDER SUSPENDING  
PROCESSING OF CASE AND  
REQUIRING PAYMENT OF  
CERTAIN PENALTY AMOUNTS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. INTRODUCTION**

In this Order, we postpone processing of the above-captioned docket until the Commission reaches a decision in Docket No. 2002-151, *Investigation Into the Adequacy of Utility Services in Maine During Power Outages* (Storm Investigation), and in the interim, we require Verizon Maine to pay its customers the Service Quality Index (SQI) penalty amount for the 2001/2002 Alternative Form of Regulation (AFOR) year calculated by excluding the data for January, 2002, i.e., as if the waiver request were granted. We emphasize that we are not granting or making any other findings regarding any aspect of the Company's waiver request at this time, and all issues related to the request will be fully explored after the Commission reaches its findings and decision in the Storm Investigation docket.

Verizon should immediately begin the process of providing customers with bill credits calculated with the results for the month of January 2002 excluded.<sup>1</sup> If the waiver request is denied, the Company will be required at that time to provide customers with the additional penalty amount calculated with the January 2002 results included.

## **II. BACKGROUND**

On June 10, 2002, Verizon New England, Inc. d/b/a Verizon Maine (Verizon or the Company) filed a Request for Waiver of the Service Quality Index related to the impact of snow and ice storms that struck areas of central and southern Maine during the week of January 13, 2002. Verizon states that its network and its team of employees performed admirably, but the severity of the damage caused by the storms was too much for Verizon to sustain within normal operating parameters. Therefore, the

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<sup>1</sup> The Commission previously granted a waiver of the SQI results for the month of September 2001.

Company has sought an exemption from the annual SQI metric calculations for the results of January 2002.

Verizon Maine has been operating under an AFOR since June 1995. See *Public Utilities Commission, Re: Investigation Into Regulatory Alternatives for the New England Telephone and Telegraph Company d/b/a NYNEX*, May 15, 1995 (AFOR Order). Because of ensuing corporate reorganizations, New England Telephone and Telegraph Company is now known as Verizon New England d/b/a Verizon Maine. As part of the AFOR, Verizon Maine is required to meet a set of specified metrics related to service quality, and if on an annual basis, the Company fails to meet the established benchmarks, it is required to pay penalty amounts based on the severity of the failure compared to each of the benchmarks, with a maximum amount of per measure and annual penalty. The SQI mechanism allows the Company to seek exemptions from the indices on a case-by-case basis for “any major event that causes a very substantial drop in quality below the SQI and that was beyond NYNEX’s ability to anticipate. If NYNEX makes a compelling demonstration that the effects of a particular significant major event should not be included in the SQI for the year, because it could not be foreseen and its effects could not be anticipated, we will consider a request for exemption.” See AFOR Order at page 83.

After the ice and snow storms that began on Sunday, January 13, 2002, Verizon asserts that a substantial number of its customers, particularly in Hancock and Penobscot Counties, experienced extended service outage periods, as the Company attempted to cope with the damage caused by the storms. Verizon states that the number of customer trouble reports was much higher than normal, making it nearly impossible to clear trouble reports within the 24 hours benchmark in the SQI mechanism. Further, since repair work took priority over installation activities, the SQI metrics related to the number of missed appointments and held order delay days also experienced adverse impacts. Verizon included a table with its waiver request that purports to show the negative effects of the storms on several SQI measures.

The Company asserts that the service quality results for January 2002 are clearly an aberration and do not accurately reflect the level of service quality Verizon normally delivers. Verizon asserts that the SQI results for January 2002 were not the result of management inattention, diversion of resources or inadequate performance of its employees or systems. Rather, the severity of the damage caused by multiple storms made achievement of the Company’s usual level of service quality impossible. Therefore, Verizon has requested that the Commission allow the Company to exclude the results of January 2002 from its annual SQI calculations.

### **III. DISCUSSION**

While Verizon’s request for a waiver of the SQI results for January 2002 is not unreasonable on its face, we will not render a decision in this docket until we have completed our related investigation into the adequacy of the Maine utilities’ performance during the storms in question. On March 26, 2002, we opened Docket No. 2002-151 to

investigate the adequacy of utility services during events that interrupt electric power service, and in particular the adequacy of telephone service during power outages in Maine. The investigation has proceeded steadily, but it is not yet complete, and additional information must still be obtained and analyzed. The results of the Storm Investigation case may be very informative in reaching a decision in the instant case. Any conclusions involving the adequacy of a particular utility's performance in preparing for and responding to the storms that hit Maine during the week of January 13, 2002, will have a direct bearing on the request for a waiver of the SQI results during the period involving the storm. Therefore, we will suspend processing Verizon's waiver request until we reach a decision in Docket No. 2002-151.

Although we will temporarily delay processing Verizon's SQI waiver request, we order that some penalty amount be credited to ratepayers as soon as reasonably possible. A review of Verizon's SQI results for the AFOR period of July 2001 through June 2002 indicates that the Company failed to meet the established benchmarks in two of the 15 categories, whether or not a waiver is granted for the January 2002 results. In the other 13 measures, Verizon has met the SQI benchmark and, therefore, no penalty is due, regardless of our decision regarding the waiver request for the January 2002 results. If the waiver ultimately is not granted, Verizon will owe additional credits to customers for the two measures that did not meet the SQI benchmarks. In other words, for the two measures in question, "% Troubles Not Cleared within 24 hours – Residence" and "PUC Complaint Ratio," Verizon owes a penalty amount whether or not its waiver request is granted. The only issue is the total amount of the penalty. Because we cannot be certain when our investigation in Docket No. 2002-151 will be completed, we believe it is unfair to ratepayers to not provide them with a credit amount that is clearly due. Therefore, we order Verizon to provide bill credits to customers pursuant to the terms of the AFOR Order as soon as reasonably possible.

Based on the Company's SQI filing for the 12 months ended June 30, 2002, we have calculated the penalty amount to be \$312,933 (\$259,615 for the PUC Complaint Ratio, and \$53,318 for the % Troubles Not Cleared within 24 hours – Residence). If Verizon disputes this calculation, it should contact our Staff at once to resolve any discrepancies. As requested by Verizon, this calculation excludes the January 2002 results.

In making the interim decision contained in this Order, we emphasize that no conclusions should be drawn or inferred about our ultimate decision on the Company's waiver request. While the findings and conclusions reached in Storm Investigation will have considerable bearing on our decision in the instant docket, they will not necessarily lead us to a specific result. The Commission must determine if the storms were so unusual or so beyond the Company's ability to anticipate and prepare for that a waiver from the service quality results is warranted. As noted above, the 1995 AFOR Order requires the event to be a "major" one "that causes a very substantial drop in quality below the SQI and that was beyond [Verizon's] ability to anticipate." The burden of proof, as always, is on the Company to make a compelling case for excluding the results.



## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.